

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
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CHAPTER 97

HOUSE BILL 2628

AN ACT

AMENDING SECTION 28-1381, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, SECOND SPECIAL SESSION, CHAPTER 5, SECTION 5; AMENDING SECTION 28-1382, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, SECOND SPECIAL SESSION, CHAPTER 5, SECTION 6; AMENDING SECTION 28-1383, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, SECOND SPECIAL SESSION, CHAPTER 5, SECTION 7; AMENDING SECTIONS 28-1461, 28-1463 AND 28-3319, ARIZONA REVISED STATUTES; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-1381, Arizona Revised Statutes, as amended by
3 Laws 2003, second special session, chapter 5, section 5, is amended to read:

4 28-1381. Driving or actual physical control while under the
5 influence; trial by jury; presumptions; admissible
6 evidence; sentencing; classification

7 A. It is unlawful for a person to drive or be in actual physical
8 control of a vehicle in this state under any of the following circumstances:

9 1. While under the influence of intoxicating liquor, any drug, a vapor
10 releasing substance containing a toxic substance or any combination of
11 liquor, drugs or vapor releasing substances if the person is impaired to the
12 slightest degree.

13 2. If the person has an alcohol concentration of 0.08 or more within
14 two hours of driving or being in actual physical control of the vehicle and
15 the alcohol concentration results from alcohol consumed either before or
16 while driving or being in actual physical control of the vehicle.

17 3. While there is any drug defined in section 13-3401 or its
18 metabolite in the person's body.

19 4. If the vehicle is a commercial motor vehicle that requires a person
20 to obtain a commercial driver license as defined in section 28-3001 and the
21 person has an alcohol concentration of 0.04 or more.

22 B. It is not a defense to a charge of a violation of subsection A,
23 paragraph 1 of this section that the person is or has been entitled to use
24 the drug under the laws of this state.

25 C. A person who is convicted of a violation of this section is guilty
26 of a class 1 misdemeanor.

27 D. A person using a drug prescribed by a medical practitioner licensed
28 pursuant to title 32, chapter 7, 11, 13 or 17 is not guilty of violating
29 subsection A, paragraph 3 of this section.

30 E. In any prosecution for a violation of this section, the state shall
31 allege, for the purpose of classification and sentencing pursuant to this
32 section, all prior convictions of violating this section, section 28-1382 or
33 section 28-1383 occurring within the past thirty-six months, unless there is
34 an insufficient legal or factual basis to do so.

35 F. At the arraignment, the court shall inform the defendant that the
36 defendant may request a trial by jury and that the request, if made, shall
37 be granted.

38 G. In a trial, action or proceeding for a violation of this section
39 or section 28-1383 other than a trial, action or proceeding involving driving
40 or being in actual physical control of a commercial vehicle, the defendant's
41 alcohol concentration within two hours of the time of driving or being in
42 actual physical control as shown by analysis of the defendant's blood, breath
43 or other bodily substance gives rise to the following presumptions:

1 1. If there was at that time 0.05 or less alcohol concentration in the
2 defendant's blood, breath or other bodily substance, it may be presumed that
3 the defendant was not under the influence of intoxicating liquor.

4 2. If there was at that time in excess of 0.05 but less than 0.08
5 alcohol concentration in the defendant's blood, breath or other bodily
6 substance, that fact shall not give rise to a presumption that the defendant
7 was or was not under the influence of intoxicating liquor, but that fact may
8 be considered with other competent evidence in determining the guilt or
9 innocence of the defendant.

10 3. If there was at that time 0.08 or more alcohol concentration in the
11 defendant's blood, breath or other bodily substance, it may be presumed that
12 the defendant was under the influence of intoxicating liquor.

13 H. Subsection G of this section does not limit the introduction of any
14 other competent evidence bearing on the question of whether or not the
15 defendant was under the influence of intoxicating liquor.

16 I. A person who is convicted of a violation of this section:

17 1. Shall be sentenced to serve not less than ten consecutive days in
18 jail and is not eligible for probation or suspension of execution of sentence
19 unless the entire sentence is served.

20 2. Shall pay a fine of not less than two hundred fifty dollars.

21 3. May be ordered by a court to perform community service.

22 4. Shall pay an additional assessment of five hundred dollars to be
23 deposited by the state treasurer in the prison construction and operations
24 fund established by section 41-1651. This assessment is not subject to any
25 surcharge. If the conviction occurred in the superior court or a justice
26 court, the court shall transmit the assessed monies to the county
27 treasurer. If the conviction occurred in a municipal court, the court shall
28 transmit the assessed monies to the city treasurer. The city or county
29 treasurer shall transmit the monies received to the state treasurer.

30 J. Notwithstanding subsection I, paragraph 1 of this section, at the
31 time of sentencing the judge may suspend all but twenty-four consecutive
32 hours of the sentence if the person completes a court ordered alcohol or
33 other drug screening, education or treatment program. If the person fails
34 to complete the court ordered alcohol or other drug screening, education or
35 treatment program and has not been placed on probation, the court shall issue
36 an order to show cause to the defendant as to why the remaining jail sentence
37 should not be served.

38 K. If within a period of sixty months a person is convicted of a
39 second violation of this section or is convicted of a violation of this
40 section and has previously been convicted of a violation of section 28-1382
41 or 28-1383 or an act in another jurisdiction that if committed in this state
42 would be a violation of this section or section 28-1382 or 28-1383, the
43 person:

1 1. Shall be sentenced to serve not less than ninety days in jail,
2 thirty days of which shall be served consecutively, and is not eligible for
3 probation or suspension of execution of sentence unless the entire sentence
4 has been served.

5 2. Shall pay a fine of not less than five hundred dollars.

6 3. May be ordered by a court to perform community service.

7 4. Shall have the person's driving privilege revoked for one year. The
8 court shall report the conviction to the department. On receipt of the
9 report, the department shall revoke the person's driving privilege and shall
10 require the person to equip any motor vehicle the person operates with a
11 certified ignition interlock device pursuant to section 28-3319. In
12 addition, the court may order the person to equip any motor vehicle the
13 person operates with a certified ignition interlock device for more than
14 twelve months beginning on the ~~conclusion of the license~~ DATE OF
15 REINSTATEMENT OF THE PERSON'S DRIVING PRIVILEGE FOLLOWING A suspension or
16 revocation or on the date of THE DEPARTMENT'S RECEIPT OF THE REPORT OF
17 conviction, whichever occurs later. The person who operates a motor vehicle
18 with a certified ignition interlock device under this paragraph shall comply
19 with article 5 of this chapter.

20 5. Shall pay an additional assessment of one thousand two hundred
21 fifty dollars to be deposited by the state treasurer in the prison
22 construction and operations fund established by section 41-1651. This
23 assessment is not subject to any surcharge. If the conviction occurred in
24 the superior court or a justice court, the court shall transmit the assessed
25 monies to the county treasurer. If the conviction occurred in a municipal
26 court, the court shall transmit the assessed monies to the city treasurer.
27 The city or county treasurer shall transmit the monies received to the state
28 treasurer.

29 L. Notwithstanding subsection K, paragraph 1 of this section, at the
30 time of sentencing, the judge may suspend all but thirty days of the sentence
31 if the person completes a court ordered alcohol or other drug screening,
32 education or treatment program. If the person fails to complete the court
33 ordered alcohol or other drug screening, education or treatment program and
34 has not been placed on probation, the court shall issue an order to show
35 cause as to why the remaining jail sentence should not be served.

36 M. In applying the sixty month provision of subsection K of this
37 section, the dates of the commission of the offense shall be the determining
38 factor, irrespective of the sequence in which the offenses were committed.

39 N. A second violation for which a conviction occurs as provided in
40 this section shall not include a conviction for an offense arising out of the
41 same series of acts.

1 Sec. 2. Section 28-1382, Arizona Revised Statutes, as amended by Laws
2 2003, second special session, chapter 5, section 6, is amended to read:

3 28-1382. Driving or actual physical control while under the
4 extreme influence of intoxicating liquor; trial by
5 jury; sentencing; classification

6 A. It is unlawful for a person to drive or be in actual physical
7 control of a vehicle in this state if the person has an alcohol concentration
8 of 0.15 or more within two hours of driving or being in actual physical
9 control of the vehicle and the alcohol concentration results from alcohol
10 consumed either before or while driving or being in actual physical control
11 of the vehicle.

12 B. A person who is convicted of a violation of this section is guilty
13 of driving or being in actual physical control of a vehicle while under the
14 extreme influence of intoxicating liquor.

15 C. At the arraignment, the court shall inform the defendant that the
16 defendant may request a trial by jury and that the request, if made, shall
17 be granted.

18 D. A person who is convicted of a violation of this section:

19 1. Shall be sentenced to serve not less than thirty consecutive days
20 in jail and is not eligible for probation or suspension of execution of
21 sentence unless the entire sentence is served.

22 2. Shall pay a fine of not less than two hundred fifty dollars. The
23 fine prescribed in this paragraph and any assessments, restitution and
24 incarceration costs shall be paid before the assessment prescribed in
25 paragraph 3 of this subsection.

26 3. Shall pay an additional assessment of two hundred fifty dollars.
27 If the conviction occurred in the superior court or a justice court, the
28 court shall transmit the monies received pursuant to this paragraph to the
29 county treasurer. If the conviction occurred in a municipal court, the court
30 shall transmit the monies received pursuant to this paragraph to the city
31 treasurer. The city or county treasurer shall transmit the monies received
32 to the state treasurer. The state treasurer shall deposit the monies
33 received in the driving under the influence abatement fund established by
34 section 28-1304.

35 4. May be ordered by a court to perform community service.

36 5. Shall be required by the department, on receipt of the report of
37 conviction, to equip any motor vehicle the person operates with a certified
38 ignition interlock device pursuant to section 28-3319. In addition, the
39 court may order the person to equip any motor vehicle the person operates
40 with a certified ignition interlock device for more than twelve months
41 beginning on the ~~conclusion of the license~~ DATE OF REINSTATEMENT OF THE
42 PERSON'S DRIVING PRIVILEGE FOLLOWING A suspension or revocation or on the
43 date of THE DEPARTMENT'S RECEIPT OF THE REPORT OF conviction, whichever
44 occurs later. The person who operates a motor vehicle with a certified

1 ignition interlock device under this paragraph shall comply with article 5
2 of this chapter.

3 6. Shall pay an additional assessment of one thousand dollars to be
4 deposited by the state treasurer in the prison construction and operations
5 fund established by section 41-1651. This assessment is not subject to any
6 surcharge. If the conviction occurred in the superior court or a justice
7 court, the court shall transmit the assessed monies to the county
8 treasurer. If the conviction occurred in a municipal court, the court shall
9 transmit the assessed monies to the city treasurer. The city or county
10 treasurer shall transmit the monies received to the state treasurer.

11 E. Notwithstanding subsection D, paragraph 1 of this section, at the
12 time of sentencing the judge may suspend all but ten days of the sentence if
13 the person completes a court ordered alcohol or other drug screening,
14 education or treatment program. If the person fails to complete the court
15 ordered alcohol or other drug screening, education or treatment program and
16 has not been placed on probation, the court shall issue an order to show
17 cause to the defendant as to why the remaining jail sentence should not be
18 served.

19 F. If within a period of sixty months a person is convicted of a
20 second violation of this section or is convicted of a violation of this
21 section and has previously been convicted of a violation of section 28-1381
22 or 28-1383 or an act in another jurisdiction that if committed in this state
23 would be a violation of this section or section 28-1381 or 28-1383, the
24 person:

25 1. Shall be sentenced to serve not less than one hundred twenty days
26 in jail, sixty days of which shall be served consecutively, and is not
27 eligible for probation or suspension of execution of sentence unless the
28 entire sentence has been served.

29 2. Shall pay a fine of not less than five hundred dollars. The fine
30 prescribed in this paragraph and any assessments, restitution and
31 incarceration costs shall be paid before the assessment prescribed in
32 paragraph 3 of this subsection.

33 3. Shall pay an additional assessment of two hundred fifty
34 dollars. If the conviction occurred in the superior court or a justice
35 court, the court shall transmit the monies received pursuant to this
36 paragraph to the county treasurer. If the conviction occurred in a municipal
37 court, the court shall transmit the monies received pursuant to this
38 paragraph to the city treasurer. The city or county treasurer shall transmit
39 the monies received to the state treasurer. The state treasurer shall
40 deposit the monies received in the driving under the influence abatement fund
41 established by section 28-1304.

42 4. May be ordered by a court to perform community service.

43 5. Shall have the person's driving privilege revoked for at least one
44 year. The court shall report the conviction to the department. On receipt
45 of the report, the department shall revoke the person's driving privilege and

1 shall require the person to equip any motor vehicle the person operates with
2 a certified ignition interlock device pursuant to section 28-3319. In
3 addition, the court may order the person to equip any motor vehicle the
4 person operates with a certified ignition interlock device for more than
5 twelve months beginning on the ~~conclusion of the license~~ DATE OF
6 REINSTATEMENT OF THE PERSON'S DRIVING PRIVILEGE FOLLOWING A suspension or
7 revocation or on the date of THE DEPARTMENT'S RECEIPT OF THE REPORT OF
8 conviction, whichever is later. The person who operates a motor vehicle with
9 a certified ignition interlock device under this paragraph shall comply with
10 article 5 of this chapter.

11 6. Shall pay an additional assessment of one thousand two hundred
12 fifty dollars to be deposited by the state treasurer in the prison
13 construction and operations fund established by section 41-1651. This
14 assessment is not subject to any surcharge. If the conviction occurred in
15 the superior court or a justice court, the court shall transmit the assessed
16 monies to the county treasurer. If the conviction occurred in a municipal
17 court, the court shall transmit the assessed monies to the city treasurer.
18 The city or county treasurer shall transmit the monies received to the state
19 treasurer.

20 G. Notwithstanding subsection F, paragraph 1 of this section, at the
21 time of sentencing, the judge may suspend all but sixty days of the sentence
22 if the person completes a court ordered alcohol or other drug screening,
23 education or treatment program. If the person fails to complete the court
24 ordered alcohol or other drug screening, education or treatment program and
25 has not been placed on probation, the court shall issue an order to show
26 cause as to why the remaining jail sentence should not be served.

27 H. In applying the sixty month provision of subsection F of this
28 section, the dates of the commission of the offense shall be the determining
29 factor, irrespective of the sequence in which the offenses were committed.

30 I. A second violation for which a conviction occurs as provided in
31 this section shall not include a conviction for an offense arising out of the
32 same series of acts.

33 J. A person who is convicted of a violation of this section is guilty
34 of a class 1 misdemeanor.

35 Sec. 3. Section 28-1383, Arizona Revised Statutes, as amended by Laws
36 2003, second special session, chapter 5, section 7, is amended to read:

37 28-1383. Aggravated driving or actual physical control while
38 under the influence; violation; classification;
39 definition

40 A. A person is guilty of aggravated driving or actual physical control
41 while under the influence of intoxicating liquor or drugs if the person does
42 any of the following:

43 1. Commits a violation of section 28-1381, section 28-1382 or this
44 section while the person's driver license or privilege to drive is suspended,
45 canceled, revoked or refused or while a restriction is placed on the person's

1 driver license or privilege to drive as a result of violating section 28-1381
2 or 28-1382 or under section 28-1385.

3 2. Within a period of sixty months commits a third or subsequent
4 violation of section 28-1381, section 28-1382 or this section or is convicted
5 of a violation of section 28-1381, section 28-1382 or this section and has
6 previously been convicted of any combination of convictions of section
7 28-1381, section 28-1382 or this section or acts in another jurisdiction that
8 if committed in this state would be a violation of section 28-1381, section
9 28-1382 or this section.

10 3. While a person under fifteen years of age is in the vehicle,
11 commits a violation of either:

12 (a) Section 28-1381.

13 (b) Section 28-1382.

14 B. The dates of the commission of the offenses are the determining
15 factor in applying the sixty month provision provided in subsection A,
16 paragraph 2 of this section regardless of the sequence in which the offenses
17 were committed. For the purposes of this section, a third or subsequent
18 violation for which a conviction occurs does not include a conviction for an
19 offense arising out of the same series of acts.

20 C. The notice to a person of the suspension, cancellation, revocation
21 or refusal of a driver license or privilege to drive is effective as provided
22 in section 28-3318 or pursuant to the laws of the state issuing the license.

23 D. A person is not eligible for probation, pardon, commutation or
24 suspension of sentence or release on any other basis until the person has
25 served not less than four months in prison if the person is convicted under
26 either of the following:

27 1. Subsection A, paragraph 1 of this section.

28 2. Subsection A, paragraph 2 of this section and within a sixty month
29 period has been convicted of two prior violations of section 28-1381, section
30 28-1382 or this section, or any combination of those sections, or acts in
31 another jurisdiction that if committed in this state would be a violation of
32 section 28-1381, section 28-1382 or this section.

33 E. A person who is convicted under subsection A, paragraph 2 of this
34 section and who within a sixty month period has been convicted of three or
35 more prior violations of section 28-1381, section 28-1382 or this section,
36 or any combination of those sections, or acts in another jurisdiction that
37 if committed in this state would be a violation of section 28-1381, section
38 28-1382 or this section is not eligible for probation, pardon, commutation
39 or suspension of sentence or release on any other basis until the person has
40 served not less than eight months in prison.

41 F. In addition to any other penalty provided by law, a person who is
42 convicted under subsection A, paragraph 3, subdivision (a) of this section
43 shall be sentenced to at least the minimum sentence required pursuant to
44 section 28-1381, except that if a person has been convicted of at least two
45 prior violations of section 28-1381, section 28-1382 or this section, or any

1 combination of those sections, or convicted of at least two prior acts in
2 another jurisdiction that if committed in this state would be violations of
3 section 28-1381, section 28-1382 or this section, or any combination of those
4 sections, within a sixty month period, the person shall be sentenced to serve
5 at least the minimum sentence required pursuant to this section.

6 G. In addition to any other penalty provided by law, a person who is
7 convicted under subsection A, paragraph 3, subdivision (b) of this section
8 shall be sentenced to at least the minimum sentence required pursuant to
9 section 28-1382, except that if a person has been convicted of at least two
10 prior violations of section 28-1381, section 28-1382 or this section, or any
11 combination of those sections, or convicted of at least two prior acts in
12 another jurisdiction that if committed in this state would be a violation of
13 section 28-1381, section 28-1382 or this section, or any combination of those
14 sections, within a sixty month period, the person shall be sentenced to serve
15 at least the minimum sentence required pursuant to this section.

16 H. A person who is convicted of a violation of this section shall
17 attend and complete alcohol or other drug screening, education or treatment
18 from an approved facility. If the person fails to comply with this
19 subsection and is placed on probation, in addition to the provisions of
20 section 13-901 the court may order that the person be incarcerated as a term
21 of probation as follows:

22 1. For a person sentenced pursuant to subsection D of this section,
23 for an individual period of not more than four months and a total period of
24 not more than one year.

25 2. For a person sentenced pursuant to subsection E of this section,
26 for an individual period of not more than eight months and a total period of
27 not more than two years.

28 I. The time that a person spends in custody pursuant to subsection H
29 of this section shall not be counted towards the sentence imposed if the
30 person's probation is revoked and the person is sentenced to prison after
31 revocation of probation.

32 J. The court:

33 1. Shall report the conviction to the department. On receipt of the
34 report, the department shall revoke the driving privilege of the person. The
35 department shall not issue the person a new driver license within three years
36 of the date of the conviction and, for a conviction of a violation of
37 subsection A, paragraph 1 or 2 or paragraph 3, subdivision (b) of this
38 section, shall require the person to equip any motor vehicle the person
39 operates with a certified ignition interlock device pursuant to section
40 28-3319. In addition, the court may order the person to equip any motor
41 vehicle the person operates with a certified ignition interlock device for
42 more than twelve months beginning on the ~~conclusion of the license~~ DATE OF
43 REINSTATEMENT OF THE PERSON'S DRIVING PRIVILEGE FOLLOWING A suspension or
44 revocation or on the date of THE DEPARTMENT'S RECEIPT OF THE REPORT OF
45 conviction, whichever occurs later. The person who operates a motor vehicle

1 with a certified ignition interlock device under this paragraph shall comply
2 with article 5 of this chapter.

3 2. In addition to any other penalty prescribed by law, shall order the
4 person to pay an additional assessment of two hundred fifty dollars. If the
5 conviction occurred in the superior court or a justice court, the court shall
6 transmit the monies received pursuant to this paragraph to the county
7 treasurer. If the conviction occurred in a municipal court, the court shall
8 transmit the monies received pursuant to this paragraph to the city
9 treasurer. The city or county treasurer shall transmit the monies received
10 to the state treasurer. The state treasurer shall deposit the monies
11 received in the driving under the influence abatement fund established by
12 section 28-1304. Any fine imposed for a violation of this section and any
13 assessments, restitution and incarceration costs shall be paid before the
14 assessment prescribed in this paragraph.

15 3. Shall order the person to pay a fine of not less than seven hundred
16 fifty dollars.

17 4. In addition to any other penalty prescribed by law, shall order the
18 person to pay an additional assessment of one thousand five hundred dollars
19 to be deposited by the state treasurer in the prison construction and
20 operations fund established by section 41-1651. This assessment is not
21 subject to any surcharge. If the conviction occurred in the superior court
22 or a justice court, the court shall transmit the assessed monies to the
23 county treasurer. If the conviction occurred in a municipal court, the court
24 shall transmit the assessed monies to the city treasurer. The city or county
25 treasurer shall transmit the monies received to the state treasurer.

26 K. Aggravated driving or actual physical control while under the
27 influence of intoxicating liquor or drugs committed under:

28 1. Subsection A, paragraph 1 or 2 of this section is a class 4 felony.

29 2. Subsection A, paragraph 3 of this section is a class 6 felony.

30 L. For the purposes of this section, "suspension, cancellation,
31 revocation or refusal" means any suspension, cancellation, revocation or
32 refusal.

33 Sec. 4. Section 28-1461, Arizona Revised Statutes, is amended to read:
34 28-1461. Use of certified ignition interlock devices

35 A. If a person's driving privilege is limited pursuant to section
36 28-1381, 28-1382, 28-1383 or 28-3319:

37 1. The person shall:

38 (a) Pay the costs for installation and maintenance of the certified
39 ignition interlock device.

40 (b) Provide proof to the department of installation of a functioning
41 certified ignition interlock device in each motor vehicle operated by the
42 person.

43 (c) Provide proof of compliance to the department at least once every
44 ninety days during the period the person is ordered to use an ignition
45 interlock device.

1 (d) Provide proof of inspection of the certified ignition interlock
2 device for accurate operation and the results of the inspection to the
3 department at least once every ninety days during the period the person is
4 ordered to use an ignition interlock device.

5 2. The department shall not reinstate the person's driver ~~license~~
6 DRIVING PRIVILEGE until the person has installed a functioning certified
7 ignition interlock device in each motor vehicle operated by the person and
8 has provided proof of installation to the department.

9 3. IF THE PERSON'S DRIVING PRIVILEGE HAS BEEN REINSTATED, BUT THE
10 PERSON'S DRIVING PRIVILEGE IS LIMITED PURSUANT TO SECTIONS 28-1381, 28-1382,
11 28-1383 OR 28-3319, THE PERSON SHALL PROVIDE PROOF TO THE DEPARTMENT OF
12 INSTALLATION OF A FUNCTIONING CERTIFIED IGNITION INTERLOCK DEVICE WITHIN
13 THIRTY DAYS FROM THE DATE THE DEPARTMENT NOTIFIES THE PERSON OF THE IGNITION
14 INTERLOCK REQUIREMENT.

15 B. The department shall make a notation on the driving record of a
16 person whose driving privilege is limited pursuant to section 28-1381,
17 28-1382, 28-1383 or 28-3319 that states that the person shall not operate a
18 motor vehicle unless it is equipped with a certified ignition interlock
19 device.

20 Sec. 5. Section 28-1463, Arizona Revised Statutes, is amended to read:
21 28-1463. Proof of compliance; suspension; hearings

22 A. If a person whose driving privilege is limited pursuant to section
23 28-1381, 28-1382, 28-1383 or 28-3319 does not submit proof of compliance to
24 the department as prescribed in section 28-1461, the department shall suspend
25 the person's driver ~~license for at least twelve months.~~ DRIVING PRIVILEGE
26 UNTIL PROOF OF COMPLIANCE IS SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT
27 SHALL REQUIRE USE OF THE CERTIFIED IGNITION INTERLOCK DEVICE FOR ONE YEAR
28 FROM THE DATE THE PERSON SUBMITS PROOF OF COMPLIANCE AS PRESCRIBED IN SECTION
29 28-1461. If a person does not request a hearing pursuant to subsection B of
30 this section, the department shall immediately suspend the person's driver
31 license.

32 B. A person whose driver license is suspended pursuant to this section
33 may submit a written request for a hearing. The written request must be
34 received by the department within fifteen days after the date of the order
35 of suspension. On receipt of a request for a hearing, a hearing shall be
36 held within thirty days.

37 C. A timely request for a hearing stays the suspension until a hearing
38 is held, except that the department shall not return any surrendered driver
39 license or permit to the person but may issue temporary permits to drive that
40 expire no later than when the department has made its final decision.

41 D. Hearings requested pursuant to this section shall be conducted in
42 the same manner and under the same conditions as provided in section
43 28-3306. For the purposes of this section, the scope of the hearing shall
44 include only the following issues:

1 1. Whether the person was ordered or required to equip a motor vehicle
2 with an ignition interlock device pursuant to article 3 of this chapter or
3 section 28-3319.

4 2. Whether the person submitted proof of compliance or inspection
5 pursuant to section 28-1461.

6 Sec. 6. Section 28-3319, Arizona Revised Statutes, is amended to read:
7 28-3319. Action after license suspension, revocation or denial

8 for driving under the influence or refusal of test;

9 ignition interlock device requirement; definition

10 A. If pursuant to section 28-1321, 28-1381, 28-1382 or 28-1383 the
11 license of a driver or the driving privilege of a nonresident is suspended
12 or revoked, the department shall not terminate the suspension or revocation
13 until the person provides proof of financial responsibility pursuant to
14 chapter 9, article 3 of this title.

15 B. If pursuant to section 28-1321, 28-1381, 28-1382 or 28-1383 an
16 unlicensed resident is denied a license or permit to operate a motor vehicle,
17 the department shall not issue a license or permit until the person provides
18 proof of financial responsibility pursuant to chapter 9, article 3 of this
19 title.

20 C. If a person whose license or driving privilege is suspended or
21 revoked pursuant to section 28-1321, 28-1381, 28-1382 or 28-1383 is ordered,
22 pursuant to section 28-1381, 28-1382 or 28-1383, to attend alcohol or other
23 drug screening, education or treatment, the department shall not either:

24 1. Terminate the suspension until the person provides proof from the
25 treatment facility that the person has completed or is participating
26 satisfactorily in alcohol or other drug screening, education or treatment.

27 2. Issue a new license to operate a motor vehicle after the revocation
28 until the person provides proof from the facility that the person has
29 completed the court ordered program.

30 D. On receipt of a report of conviction from a court, the department
31 shall require any motor vehicle the convicted person operates to be equipped
32 with a FUNCTIONING certified ignition interlock device AND THE CONVICTED
33 PERSON TO MEET THE REQUIREMENTS PRESCRIBED IN SECTION 28-1461 for twelve
34 months if any of the following applies:

35 1. The department determines that within a period of sixty months a
36 person is convicted of a second or subsequent violation of section 28-1381
37 with a prior conviction of a violation of section 28-1381 or 28-1382 or an
38 act in another jurisdiction that if committed in this state would be a
39 violation of section 28-1381 or 28-1382.

40 2. The conviction is for a violation of section 28-1382.

41 3. The conviction is for a violation of section 28-1383, subsection
42 A, paragraph 1 or 2 or paragraph 3, subdivision (b).

1 E. The twelve month period prescribed in subsection D of this section
2 begins on the ~~conclusion~~ DATE OF REINSTATEMENT of the person's ~~license~~
3 DRIVING PRIVILEGE FOLLOWING A suspension or revocation or on the date of THE
4 DEPARTMENT'S RECEIPT OF THE REPORT OF conviction, whichever occurs later.

5 F. A person who is required to equip a motor vehicle with a certified
6 ignition interlock device pursuant to subsection D of this section shall
7 comply with chapter 4, article 5 of this title.

8 G. For the purposes of this section, "certified ignition interlock
9 device" has the same meaning prescribed in section 28-1301.

APPROVED BY THE GOVERNOR APRIL 16, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2004.